

(10) Other relevant factors.

(d) *Consideration of recruitment incentive.* In determining whether to use the superior qualifications and special needs pay-setting authority and the level at which the employee's payable rate of basic pay should be set, an agency must consider the possibility of authorizing a recruitment incentive under 5 CFR part 575, subpart A.

(e) *Approval and documentation requirements.* (1) An agency must approve each determination to use the superior qualifications and special needs pay-setting authority prior to the candidate entering on duty. Each determination must be made in writing and reviewed and approved by an official of the agency who is at least one level higher than the employee's supervisor, unless there is no official at a higher level in the agency.

(2) An agency must document all of the following for each determination to use the superior qualifications and special needs pay-setting authority sufficient to allow reconstruction of the action taken in each case:

(i) The superior qualifications of the candidate under paragraph (b)(1) of this section or the special agency need for the candidate's services under paragraph (b)(2) of this section which justifies a higher than minimum rate;

(ii) An explanation of the factor(s) and supporting documentation under paragraph (c) of this section which were used to justify the rate at which the employee's pay is set. The written documentation must explain how the factors directly relate to the rate approved; and

(iii) The reasons for authorizing a higher than minimum rate instead of or in addition to a recruitment incentive under 5 CFR part 575, subpart A.

(f) *Ensuring compliance.* An agency must establish appropriate internal guidelines and evaluation procedures to ensure compliance with the law, this section of OPM regulations, and agency policies.

[70 FR 31291, May 31, 2005, as amended at 73 FR 66152, Nov. 7, 2008]

§531.213 Setting pay upon change in position without a change in grade.

For an employee who is moved laterally (by transfer, reassignment,

change in type of appointment, change in official worksite, or other change in position) from one GS position to a different GS position without a change in grade or a break in service, the agency must determine the employee's payable rate of basic pay and any underlying rate(s) of basic pay based on the employee's new position of record, new official worksite, and the step (or relative position in range for a GM employee) in effect before the position change. If an employee is eligible to receive a higher rate under the maximum payable rate rule in §531.221, the agency may choose to apply that rule. If an employee is entitled to pay retention, the agency must apply the rules in 5 CFR part 536.

[70 FR 31291, May 31, 2005, as amended at 73 FR 66152, Nov. 7, 2008]

§531.214 Setting pay upon promotion.

(a) *General.* An agency must set an employee's payable rate of basic pay upon promotion following the rules in this section, consistent with 5 U.S.C. 5334(b). The promotion rule in 5 U.S.C. 5334(b) and the implementing rules in this section apply only to a GS employee who is promoted from one GS grade to a higher GS grade. Consistent with §531.206, any general pay adjustment that takes effect on the same day as a promotion action must be processed before applying the rules in this section.

(b) *Geographic conversion.* When an employee's official worksite is changed to a new location where different pay schedules apply, the agency must convert the employee to the applicable pay schedule(s) and rate(s) of basic pay for the new official worksite based on the employee's position of record before promotion as provided in §531.205 before processing a simultaneous promotion action.

(c) *Simultaneous within-grade increase.* When an employee is entitled to a within-grade increase or a quality step increase that is effective at the same time as a promotion, the agency must process that increase before processing the promotion action.

(d) *Promotion rule—(1) General.* An agency must determine an employee's payable rate of basic pay upon promotion using the standard method in

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paragraph (d)(3) of this section or the alternate method in paragraph (d)(4) of this section, subject to the special rule in paragraph (d)(5) of this section for employees receiving a retained rate before promotion. A determination regarding whether the alternate method is used in place of the standard method depends on the pay schedules that apply to an employee before and after promotion, as provided in paragraph (d)(2) of this section. In this paragraph (d), references to an employee's rate or range "before promotion" mean the rate or range before promotion but after any geographic conversion required by paragraph (b) of this section.

(2) *Determining applicable method.* The following rules govern determinations regarding which promotion method to use:

(i) Apply the standard method exclusively if the employee is covered by the same pay schedules before and after promotion. For example, an employee may be covered by the General Schedule and the same locality rate schedule before and after promotion.

(ii) Apply the alternate method if the employee is covered by different pay schedules before and after promotion and if the alternate method will produce a higher payable rate upon promotion than the standard method. For example, an employee may be covered after promotion by a special rate schedule that did not apply to him or her before promotion, and the alternate method will produce a higher rate.

(iii) Apply the standard method in all other circumstances, except that an agency may, at its sole and exclusive discretion, apply the alternate method for an employee covered by different pay schedules before and after promotion even though the method produces a lesser payable rate than the standard method, but only under the following conditions:

(A) The agency determines it would be inappropriate to use the standard method based on a finding that the higher pay for the position before promotion is not sufficiently related to the knowledge and skills required for the position after promotion; and

(B) The agency informs the employee of the determination to use the alter-

nate method before the effective date of the promotion.

(3) *Standard method.* (i) The standard method of applying the promotion rule is presented in the following table:

Promotion Rule—Standard Method

Step A	If applicable, apply the geographic conversion rule in §531.205 to determine the employee's rate(s) and range(s) of basic pay based on the employee's position of record before promotion and the new official worksite, as required by paragraph (b) of this section. Also, if applicable, provide any simultaneous within-grade increase or quality step increase, as required by paragraph (c) of this section. Use the resulting rate(s) of basic pay as the existing rate(s) in effect immediately before promotion in applying steps B and C.
Step B	Identify the employee's existing GS rate (or LEO special base rate) in the grade before promotion, and increase that rate by two GS within-grade increases for that grade.
Step C	Determine the payable (highest) rate of basic pay for the step or rate determined in step B by applying any locality payment or special rate supplement applicable to the given grade, based on the employee's position of record before promotion and official worksite after promotion. (If the rate determined in step B is above the range maximum, use the same locality payment or special rate supplement that applies to rates within the rate range.)
Step D	Identify the highest applicable rate range for the employee's position of record after promotion and find the lowest step rate in that range that equals or exceeds the rate determined in step C. This is the employee's payable rate of basic pay upon promotion. (If the rate identified in step C exceeds the maximum of the rate range identified in this step, the employee's payable rate is that maximum rate, or, if the employee's existing rate is higher than that maximum rate, a retained rate under 5 CFR part 536 equal to that existing rate.)

(ii) Example of standard method: A GS-11, step 5, employee in Los Angeles is promoted to a GS-12 position in Kansas City. In Kansas City, a special rate schedule would apply to the employee's GS-11 position, but at GS-12 no special rate range applies; instead, just a locality rate range applies. Thus, different pay schedules apply to the employee in Kansas City before and after promotion. The agency determines that the standard method produces a higher rate than the alternate method because the employee is covered by a special rate schedule before promotion but not after promotion. The agency also determines it will not invoke the exception provision under paragraph

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(d)(2)(iii). The agency applies the standard method as follows:

Step A	Apply the geographic conversion rule to determine the rates of basic pay for the GS-11, step 5, position in Kansas City. The pay schedules applicable to the employee in Kansas City are the General Schedule, the locality rate schedule applicable in Kansas City, and the special rate schedule applicable to the employee's position in Kansas City.
Step B	Using the underlying General Schedule, increase the GS-11, step 5, rate by two within-grade increases, which produces the GS-11, step 7, rate.
Step C	The payable (highest) rate of basic pay for GS-11, step 7, is the corresponding GS-11, step 7, special rate that would be applicable to the GS-11 position in Kansas City.
Step D	The highest applicable rate range for the GS-12 position after promotion is the GS-12 locality rate range under the Kansas City locality rate schedule. Find the lowest step rate in that range that equals or exceeds the GS-11, step 7, special rate from step C. That step rate is the payable rate of basic pay upon promotion.

(4) *Alternate method.* (i) The alternate method of applying the promotion rule, which involves using pay schedules applicable before promotion and then converting pay to a different schedule applicable after promotion, is presented in the following table:

Promotion Rule—Alternate Method	
Steps A, B, C	Same as standard method in paragraph (d)(3) of this section.
Step D	Identify the highest applicable rate range for the employee's grade after promotion based on consideration of any pay schedule that applied to the employee's position of record <i>before</i> promotion (after any geographic conversion). (Do not consider pay schedules that apply only to the employee's new position of record after promotion. For example, if a particular special rate schedule applies only to an employee's position of record after promotion, disregard that schedule in applying this step.) Find the lowest step in the highest applicable rate range that equals or exceeds the rate identified in step C. (If the rate identified in step C exceeds the maximum of the rate range identified in this step, the employee's payable rate is that maximum rate, or, if the employee's existing rate is higher than that maximum rate, a retained rate under 5 CFR part 536 equal to that existing rate.)

Step E	Convert the lowest step rate identified in step D to a corresponding step rate (same step) in the highest applicable rate range for the employee's new position of record after promotion. This is the employee's alternate payable rate of basic pay upon promotion. (If the rate derived under step D was a retained rate, determine the alternate payable rate of basic pay as provided in paragraph (d)(4)(ii) of this section.)
Step F	If the alternate payable rate identified in step E exceeds the payable rate resulting from the standard method in paragraph (d)(3) of this section, the employee is entitled to the alternate rate upon promotion. Otherwise, the employee is entitled to the payable rate derived under the standard method, except as provided in paragraph (d)(2)(iii) of this section.

(ii) In applying step E of the table in paragraph (d)(4)(i) of this section, if the rate derived under step D was a retained rate, compare the retained rate to the highest applicable rate range identified in step E. If the retained rate exceeds the maximum of that rate range, the retained rate continues and is the employee's alternate payable rate upon promotion. If the retained rate is below the rate range maximum, the employee's alternate payable rate upon promotion is the maximum rate of the range (step 10).

(iii) Example of alternate method: A GS-7, step 7, employee in Atlanta is promoted to a GS-9 position in Washington, DC. The promotion involves not only a change in grade but also a change in the employee's occupational series. In Washington, DC, no special rate schedule would apply to a GS-7 or GS-9 position in the old occupational series, but a special rate schedule does apply to the GS-9 position in the new occupational series. Thus, different pay schedules apply before and after promotion, and the alternate method would result in a higher rate than the standard method. As provided in paragraph (d)(2)(ii) of this section, the agency must apply the alternate method and compare the result to the result derived under the standard method, as follows:

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Step A	Apply the geographic conversion rule in § 531.205 to determine the rates of basic pay for the GS–7, step 7, position in Washington, DC. Based on the GS–7 position before promotion (including the old occupational series), the pay schedules applicable to the employee in Washington, DC, would be the General Schedule and the locality rate schedule applicable in Washington, DC.
Step B	Using the underlying General Schedule, increase the GS–7, step 7, rate by two within-grade increases, which produces the GS–7, step 9, rate.
Step C	The payable (highest) rate of basic pay for GS–7, step 9, is the corresponding GS–7, step 9, locality rate in Washington, DC.
Step D	If the employee were promoted to a GS–9 position in the old occupational series, the highest applicable rate range for that GS–9 position after promotion would be the GS–9 locality rate range in Washington, DC. The GS–9, step 3, locality rate is the lowest step rate in that range that equals or exceeds the GS–7, step 9, locality rate from step C.
Step E	Convert the GS–9, step 3, locality rate to the higher GS–9, step 3, special rate that applies to the employee's position after promotion (including the new occupational series). That GS–9, step 3, special rate is the payable rate of basic pay upon promotion.
Step F	Assume that the standard method would have compared the GS–7, step 9, locality rate directly to the higher GS–9 range of special rates and produced a rate of GS–9, step 1. Since the rate produced by the alternate method (GS–9, step 3) is greater than the rate produced by the standard method, the result of the alternate method is used.

(5) *If employee was receiving a retained rate before promotion.* (i) If an employee's existing payable rate of basic pay before promotion is a retained rate, apply the applicable promotion methods in paragraphs (d)(3) or (d)(4) of this section as if the employee were receiving the maximum rate of the employee's grade before promotion.

(ii) If the payable rate of basic pay after promotion determined under paragraph (d)(5)(i) of this section is greater than the employee's existing retained rate, the employee is entitled to that payable rate.

(iii) If the existing retained rate is greater than the rate determined under paragraph (d)(5)(i) of this section, the retained rate must be compared to the highest applicable rate range for the position after promotion, as provided in 5 CFR 536.304. The employee is entitled to the lowest step rate in the range that equals or exceeds the retained rate or, if the retained rate ex-

ceeds the range maximum, to the retained rate.

(6) *If employee is promoted from GS–1 or GS–2.* In applying the promotion rule to an employee who is promoted from step 9 or 10 of grade GS–1 or GS–2, the value of two within-grade increases is determined by doubling the within-grade increase between step 9 and 10 for the applicable grade.

(e) *Temporary promotions.* Pay is set for an employee receiving a temporary promotion on the same basis as a permanent promotion. Upon expiration or termination of the temporary promotion, pay is set as provided in § 531.215(c). If a temporary promotion is made permanent immediately after the temporary promotion ends, the agency may not return the employee to the lower grade; instead, the agency must convert the employee's temporary promotion to a permanent promotion without a change in pay.

(f) *Corrections of demotions.* The promotion rule in this section may not be used in correcting an erroneous demotion. (See § 531.215(e).)

[70 FR 31291, May 31, 2005, as amended at 70 FR 74995, Dec. 19, 2005]

§ 531.215 Setting pay upon demotion.

(a) *General.* Except as otherwise provided in this section, an employee who is demoted is entitled to the minimum payable rate of basic pay for the lower grade unless the agency sets the employee's pay at a higher rate under—

(1) The grade and pay retention rules in 5 CFR part 536, as applicable; or

(2) The maximum payable rate rule in § 531.221, as applicable.

(b) *Geographic conversion.* If the employee's official worksite after demotion is in a different geographic location where different pay schedules apply, the agency must first convert the employee's payable rate of pay as required by § 531.205 before setting the demoted employee's pay using the grade and pay retention rules in 5 CFR part 536 or the maximum payable rate rule in § 531.221.

(c) *Expiration or termination of a temporary promotion.* (1) When an employee is returned to the lower grade from which promoted on expiration or termination of a temporary promotion, the agency must set the employee's